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May 6, 1996

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Office of the Secretary
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

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MAY 7 1996

Re: In the Matter of Federal-State Joint Board on Universal Service
FCC 96-93; CC Docket No. 96-45

Dear Secretary:

Pursuant to FCC Rules, Sections 1.415 and 1.419, enclosed is the original and 13 copies of Reply Comments of the Washington Utilities and Transportation Commission (including two copies marked "Extra Public Copy") regarding the above referenced matter.

Very truly yours,

STEVEN W. SMITH
Assistant Attorney General

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Enclosures

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Before the
Federal Communications Commission
Washington, D.C. 20554

20554
JUL 7 1996

FCC 96-93

In the Matter of

Federal-State Joint Board on
Universal Service

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CC Docket No. 96-45

REPLY COMMENTS

OF

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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I. INTRODUCTION AND SUMMARY

The Washington Utilities and Transportation Commission (Washington UTC or Commission) submits the following reply comments in response to the opening round of comments in the Federal Communications Commission's (FCC) Notice of Proposed Rulemaking and Order Establishing Joint Board (NPRM) (issued March 8, 1996). The Commission intends to file additional comments in response to the notice and call for comments by the Joint Board mandated by 47 U.S.C. § 254(a)(1), and in any further rounds of comments before the FCC following the Joint Board recommendations.

As we noted in our opening comments in this docket, the Washington UTC has promoted universal service goals while facilitating the advent of competition in this state. As this task has proceeded, the Commission has recognized the new market realities while seeking to maintain the affordability and availability of basic telephone service.

The point which the Washington UTC wishes to emphasize in these reply comments is that the core universal service mechanisms in place—the USF for high-cost companies, and Lifeline and Link-up for low-income customers—are not appropriate targets for elimination or for drastic modifications. As a general proposition, these programs meet the requirement of Section 254(b) of the Telecommunications Act of 1996 that both federal and state mechanisms be

"specific, predictable, and sufficient." Moreover, we urge the Joint Board and the FCC to preserve the current structure in which universal service support is segregated into separate funds according to the purpose for which it is intended. Any plan which combines all funding from various sources for a variety of purposes runs afoul of the clear intent of the Act that support mechanisms be explicit.

With respect to support for high-cost companies through the USF, there are clearly ways in which the mechanism can be improved (for example, by better targeting, use of "benchmarks" for executive salaries, and other means). The proxy model approach has merit. The Commission urges care, however, to ensure that a truly fair and workable proxy alternative is developed. Rushing to adopt a flawed proxy model may only cause anti-competitive effects and negatively impact universal service goals. Until a reliable model is developed, the existing mechanisms should be retained.

II. COMMENTS

A. Support for Rural, Insular, and High-Cost Areas

1. The Core Definition: The Limits of Service Extension (NPRM ¶¶ 15-23)

Washington State encourages policies which facilitate competition and universal service as common goals. As we stated in our initial comments, we believe that creating lists of features and technologies with accompanying support

mechanisms could become a "slippery slope". This approach should be limited and focused in a competitive environment in order to address market failures.

Our initial comments detailed the potentially significant costs involved in providing mandated universal service features to "every" customer (WUTC Comments, p. 8). That scenario involved customers already receiving service. An additional problem is the extension of service to unserved areas. Washington State has areas that are so "high cost" that they are simply not economical to serve. One such area is Libby Creek, a small community of about a dozen families on the eastern side of the Cascade Mountains, isolated without even basic telephone services. Neither of the two closest LECs (PTI or USWC) have volunteered to serve these customers, despite the existence of universal service support. The estimated cost for PTI to install facilities to serve the community is approximately \$8,000 per customer, with a monthly revenue requirement of \$260 per access line.¹ The Commission has worked long and hard to find a solution to providing service in this area but has not been successful to date. In our view, however, the Joint Board and the FCC should be wary of adopting definitions and support mechanisms which will require this type of service extension to be subsidized by customers and providers through the universal service fund no matter what the cost. The Libby Creek example also illustrates the kind of special local problems

¹Comments of Pacific Telecom Inc., October 28, 1994, CC Docket 80-286, pp. 10-11.

which will be difficult if not impossible for the FCC to deal with in a centralized way from Washington D.C.

2. Rate Comparability (NPRM ¶ 25)

In addressing the legitimate goal of ensuring that all segments of American society are afforded comparable rates, it is important to consider as well the impact upon competition. For example, in Washington, the access charges for some local exchange companies are higher than they are for others. The Commission is authorized by state law to prohibit discriminatory rates between the long haul and short haul toll markets.

The concern to take into account is that the requirement to average rates may cause competitors to be discouraged from attempting to provide service in high cost areas, diluting the advantages of competition to rural Americans.

Further, with regard to rate comparability, it is not well understood at this point whether the relevant comparisons are intended to be rate comparability for the nation, between rural and urban nationally, or rather should the comparisons be drawn between regions, or between states? The Washington UTC will be seeking such clarification from the Federal State Joint Board.

Finally, the Washington UTC has addressed the issue of implicit subsidies and averaged rates in its recent decision on the U S West rate case in its Docket UT-950200. The Washington UTC has found that an average statewide rate is not inconsistent with a competitive market in Washington. U S West sought to charge

a higher rate in rural exchanges than in urban exchanges. However, evidence in the case showed that although it does cost more to provide service in rural areas, neither the cost difference nor the level of competition were significant enough to justify a rate differential. Instead, the Washington UTC found that a statewide average rate allows U S West to provide service at rates that exceed the average cost of providing service, but which are affordable at \$10.50 per month for residential flat rated service.

3. Advertising Requirement (NPRM ¶ 43)

The requirement in Section 214(e)(1) of the Act, that carriers advertise the availability of services supported by federal universal service funds, raises the concern that carriers could interpret this provision to justify blanket approval of any advertising that even mentions the "universal" services.

Our experience in the recently concluded USWC rate case (*Washington UTC v. U S West Communications, Inc.*, Fifteenth Supplemental Order, Washington UTC Docket UT-950200), and in previous rate cases affecting other companies, is that many companies believe that any and all advertising is appropriately recovered in rates, including image enhancement advertising. Our concern is that companies will include such advertising in their "above-the-line" expenses if it even mentions subsidy-eligible telephone services, arguing that the advertising is required under Section 214(e)(1).

This concern may be moot in a new competitive environment where price caps are the norm; however, the Act itself does nothing to prevent companies still subject to rate of return regulation from recovering rates that include gratuitous advertising disguised as "universal service" advertising required by the Act. The Washington UTC urges the Commission to define as narrowly as possible the types and scope of advertising that should be considered as being required by Section 214(e)(1).

4. Administration of Support Mechanism: Method of Collection/Assessment

It is important to recognize that high cost funding dollars are a relatively small share of all of the monies that go to support affordable local rates. High cost fund dollars are generated and distributed in a fairly competitively neutral fashion already, and the Joint Board should look into ways of adjusting or fine-tuning that system, not totally redoing it. The high cost fund is explicit, and well targeted to those companies with longer than average loop lengths. On the other hand, implicit subsidies represent a larger and potentially more anti-competitive influence. These supports should be addressed as a longer term issue. Changes should gradually be phased in to adjust and, most importantly, cap the size and direction of implicit subsidies.

The Washington UTC generally concurs with the comments of several other parties, including the joint comments filed by the state PUCs of Maine, Montana, Nebraska, New Hampshire, New Mexico, Utah, Vermont, and West

Virginia, regarding the use of proxy models. Proxy cost models show promise as a mechanism for fairly determining costs while avoiding problems inherent with company-reported cost figures. In our recent U S West rate case order, this Commission found the Hatfield model useful in determining whether the price of service exceeded cost, and in arriving at a measure of average incremental cost per line on a statewide basis. *See, e.g.*, Fifteenth Supplemental Order, p. 86. While a proxy model was useful in this context, proxy models may not yet be precise enough to be used for collection and distribution of universal service funds. It is probably premature, without further refinement, to order an immediate implementation of a proxy model approach in the universal service context.

B. Support for Schools and Libraries (NPRM ¶¶ 71-88).

Support for school and library services alone will not guarantee that all schools will automatically be connected to these essential services. Many schools will also require the acquisition of costly hardware and software prior to implementation. With many school districts currently stretched to their limit in terms of financing, additional encouragement, and solicitation of goods and services may be required. Therefore, the FCC, as well as state commissions, need to encourage participation of community action groups, industry, local school boards, and PTAs in encouraging innovative projects which will help foster the development of these advanced services to the classroom.

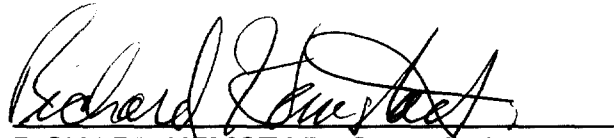
Rather than imposing strictly defined measures on how services to schools, libraries, and health care centers should be supported, the Commission should resort to realism and prudence. Rather than requiring activities that could result in undue taxation at the local level, the Commission should encourage ground up grass roots participation in achieving these ideals. To the extent possible, the use of market forces should be encouraged to the maximum. One approach is to encourage the use of a competitive bidding process for these projects as detailed in the response by Florida Cable Telecommunications Association. The FCC and Joint Board should take particular care to avoid creating definitions and support mechanisms which favor incumbent providers and existing technology, a fundamentally anti-competitive outcome. In the long run, it is in the best interests of the schools and libraries that affordable quality services are made available to them by the market, rather than to develop dependency on subsidy or support mechanisms.

III. CONCLUSION


The Washington UTC urges the FCC and the Joint Board to proceed carefully in any revision of the core universal service support mechanisms. The proxy model approach needs careful development and should not be adopted on a "flash cut" basis as an immediate replacement for existing mechanisms. With regard to the other issues discussed in these reply comments, the FCC and Joint

Board should take an approach which leaves the maximum flexibility to the states in protecting and enhancing universal service.

DATED this 6th day of May, 1996, at Olympia, Washington.

A handwritten signature in black ink, appearing to read "Richard Hemstad", written over a horizontal line.

RICHARD HEMSTAD, Commissioner
Washington Utilities and
Transportation Commission

A handwritten signature in black ink, appearing to read "Wm. R. Gillis", written over a horizontal line.

WILLIAM R. GILLIS, Commissioner
Washington Utilities and
Transportation Commission

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COMMUNICATIONS

FCC 96-93

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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on May 6, 1996, I served true and correct copies of Reply Comments of Washington Utilities and Transportation Commission and this Certificate of Service on the following persons as set forth below:

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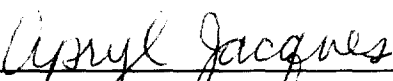
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